

**IN THE HIGH COURT OF PUNJAB & HARYANA AT  
CHANDIGARH.**

**CIVIL WRIT PETITION NO.1436 OF 1991  
DECIDED ON : 05.12.2007**

Ram Kishan Gupta son of Shri Kanshi Ram, caste Mahajan,  
resident of Charkhi Dadri.

.....Petitioner.

Versus

Hem Chand son of Shri Amra Ram, caste arora, resident of Main  
Market, Charkhi Dadri.

....Respondent.

CORAM: HON'BLE MR. JUSTICE SHAM SUNDER.

Present: Sh.O.P.Goyal Sr.Adv., with  
Ms.Pawanpreet Kaur Adv.  
For the petitioner.

None for the respondent.

**JUDGMENT:**

This revision petition is directed against the judgment dated 28.01.1991 rendered by the Appellate Authority (Additional Distt. Judge), Bhiwani vide which it dismissed the appeal against the order dated 29.09.1989 of the Rent Controller, Charkhi Dadri, fixing the fair rent of the demised premises @ Rs.86/- including house tax w.e.f. 06.01.1988.

2. The landlord/petitioner inducted the respondent, as a tenant in the demised premises as fully detailed, in the ejectment application, at a monthly rental of Rs.78/- + house tax. The ejectment of the respondent/tenant, was sought, on the ground, that he had been in arrears of rent from. 01.11.1987 to 31.12.1987 + house tax, amounting to Rs.108/-. Prayer for fixation of fair rent, was also made, on the ground that after 01.09.1982 when the fair rent, was earlier fixed, there has been an increase in the price index. Accordingly, a combined application under Sections 13 & 4 of Haryana Urban (Control of Rent and Eviction) Act, 1973, was **CIVIL**

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filed by the landlord/petitioner.

3. Upon notice, the respondent/tenant, put in appearance, and filed written statement, wherein, he admitted the relationship of landlord and tenant. The rate of rent, at Rs.78/- per month (including house tax), was admitted. It was stated that the arrears of rent, demanded by the landlord/petitioner, had already been paid by him. It was further stated that the fair rent of the shop in-question, at Rs.78/- per month, had already been fixed and there had been no increase in the price index, and, thus, there was no question of fixing the fair rent again.

4. In the replication, filed by the landlord/petitioner, he reiterated all the averments, contained in the petition and repudiated those contained in the written statement.

5. On the pleadings of the parties, the following issues were struck, by the Rent controller:-

1. Whether the respondent is liable to be ejected from the premises indispute, as alleged? OPA
2. Whether there are grounds for the fixation of fair rent, if so at what rate ? OPA
3. Whether the applicant has no locus-standi to file the application ? OPR
4. Whether the application is bad for non-joinder of necessary parties ? OPR
5. Relief.

6. The parties led documentary, as well as oral evidence, in support of their case. After hearing the Counsel for the parties, and on, going through the record of the case, the Rent Controller, fixed the fair rent at Rs.86/- (round figure) per month, w.e.f. 06.01.1988 including house tax. Since the Counsel for the landlord/petitioner conceded that the respondent had paid the arrears of rent, including cost and interest, no finding was recorded on issue No.1, as the same was rendered redundant.

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7. Feeling aggrieved, against the judgment dated 29.09.1989, the landlord preferred an appeal, which was dismissed by the Appellate Authority (Additional Distt. Judge), Bhiwani.

8. Dissatisfied with the judgments of the Courts below, the instant revision petition, was filed by the landlord/petitioner.

9. Notice of the petition, was given to the respondent/tenant. Initially, Counsel for the respondent/tenant, put in appearance but, lateron none appeared on his behalf.

10. I have heard the Counsel for the petitioner and have gone through the record of the case carefully.

11. The learned counsel for the petitioner contended that the formula for fixing the fair rent, depicted in Section 4(2) of Haryana Urban (Control of Rent and Eviction) Act, 1973, was interpreted and approved by a Division Bench of this Court in **Yoginder Mohan Versus Krishan Lal 2000(1) PLR 788**. It is to be determined, as to whether, the Courts below, fixed the fair rent in accordance with the formula, referred to above, and in consonance with the principle of law laid down in **Yoginder Mohan's case (supra)**. Admittedly, the basic rent, in this case, was Rs.78/- per month including house tax in the year 1982. The application, out of the decision whereof, the instant revision petition has arisen, was filed on 06.01.1988. The price index of the year 1982 was Rs.285.3 paise and of the year 1987 i.e. one year preceding the filing of the application was Rs.395.7. Under these circumstances, the difference came to be Rs.110.4 or Rs.110/- (round figure). The percentage of difference, between the two figures of price index, came to be Rs.38.69%. The Court could grant increase or decrease to the maximum of 25% under Section 4 (3) of the Act which came to be 9.67%. On this basis the increase in the fair rent came to be Rs.7.54 (78/9.67x100). The

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fair rent, therefore, came to be Rs.78+7.54 = Rs.85.54. The round figure of fair rent, therefore, came to be Rs.86/- per month w.e.f. 06.01.1988 including house tax. The calculations were also depicted by the Counsel for the revision petitioner, in a separate chart, which are in consonance with the decision rendered by the Courts below. The Courts below, in my opinion, rightly calculated the fair rent, in accordance with the formula, referred to above, and the principle of law, laid down, in **Yoginder Mohan's case (Supra)**. The judgments of the Lower Courts, therefore, do not suffer from any illegality or infirmity and, therefore, no interference is called for therewith.

12. For the reasons recorded hereinbefore, the revision-petition, is dismissed with no order as to costs.

**December 05, 2007**  
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**(Sham Sunder)**  
Judge